

Federal Reserve System

§ 261.22

other Federal Reserve staff in accordance with internal supervisory procedures. Requests to disclose any other confidential supervisory information to these or other agencies should be directed to the General Counsel under § 261.22(c) or § 261.23(c).

(3) *Legal counsel and auditors.* When necessary or appropriate in connection with the provision of legal or auditing services to the supervised financial institution, the supervised financial institution may disclose confidential supervisory information to its legal counsel or auditors. The supervised financial institution may also disclose confidential supervisory information to service providers (such as consultants, contractors, contingent workers, and technology providers) of its legal counsel or auditors if the service provider is under a written agreement with the legal counsel or auditor in which the service provider agrees that:

(i) It will treat the confidential supervisory information in accordance with § 261.20(a); and

(ii) It will not use the confidential supervisory information for any purpose other than as necessary to provide the services to the supervised financial institution.

(4) *Other service providers.* (i) A supervised financial institution may disclose confidential supervisory information to other service providers engaged by the supervised financial institution if the service provider is under a written contract to provide services to the institution, the disclosure of the confidential supervisory information is deemed necessary to the service provider's provision of services, and the service provider has a written agreement with the institution in which the service provider has agreed that:

(A) It will treat the confidential supervisory information in accordance with § 261.20(a); and

(B) It will not use the confidential supervisory information for any purpose other than as provided under its contract to provide services to the supervised financial institution.

(ii) A supervised financial institution shall maintain a written account of the disclosures of confidential supervisory information that the supervised financial institution makes to service pro-

viders under this section and provide the Board or Reserve Bank with a copy of such written account upon the Board's or Reserve Bank's request.

§ 261.22 Nonpublic information made available by the Board to governmental agencies and entities exercising governmental authority.

(a) *Disclosure to Federal and State financial institution supervisory agencies.* The Director of the Division of Supervision and Regulation, the Director of the Division of Consumer and Community Affairs, the General Counsel, or the appropriate Reserve Bank may, for legitimate supervisory or regulatory purposes and with or without a request, disclose confidential supervisory information and other nonpublic information to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Bureau of Consumer Financial Protection, and a State financial institution supervisory agency.

(b) *Disclosures pursuant to the Equal Credit Opportunity Act, the Fair Housing Act, and the Employee Retirement Income Security Act.* The Director of the Division of Supervision and Regulation, the Director of the Division of Consumer and Community Affairs, or the General Counsel may disclose confidential supervisory information and other nonpublic information concerning a supervised financial institution to:

(1) The Attorney General or to the Secretary of the Department of Housing and Urban Development related to the enforcement of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*) or the Fair Housing Act (42 U.S.C. 3601 *et seq.*); and

(2) The Secretary of the Department of Labor and the Secretary of the Department of the Treasury in accordance with section 3004(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1204(b)).

(c) *Disclosure to other governmental agencies and entities exercising governmental authority.* Except as provided in paragraph (d) or (e) of this section, other Federal, State, and local agencies, including law enforcement agencies, and other entities exercising governmental authority, may file written requests with the Board for access to

§ 261.23

12 CFR Ch. II (1–1–23 Edition)

confidential supervisory information and other nonpublic information under this section, including information in the form of testimony and interviews from current or former Federal Reserve System staff. Properly accredited foreign law enforcement agencies and other foreign government agencies may also file written requests with the Board in accordance with this paragraph, except that provision of confidential supervisory information to foreign bank regulatory or supervisory authorities is governed by 12 CFR 211.27.

(1) *Contents of request.* To obtain access to confidential supervisory information or other nonpublic information under this section, including information in the possession of a person other than the Board, the requester shall address a letter request to the Board's General Counsel, specifying:

(i) The particular information, kinds of information, and where possible, the particular documents to which access is sought;

(ii) The reasons why such information cannot be obtained from the supervised financial institution in question or another source rather than from the Board;

(iii) A statement of the law enforcement purpose or other statutory purpose for which the information shall be used;

(iv) A commitment that the information requested shall not be disclosed to any person outside the requesting agency or entity without the written permission of the General Counsel; and

(v) If the document or information requested includes customer account information subject to the Right to Financial Privacy Act, as amended (12 U.S.C. 3401 *et seq.*), any Federal agency request must include a statement that such customer account information need not be provided, or a statement as to why the Act does not apply to the request, or a certification that the requesting Federal agency has complied with the requirements of the Act.

(2) *Action on request.* The General Counsel may approve the request upon determining that:

(i) The request complies with this section;

(ii) The information is needed in connection with a formal investigation or other official duties of the requesting agency or entity;

(iii) Satisfactory assurances of confidentiality have been given; and

(iv) Disclosure is consistent with the supervisory and regulatory responsibilities and policies of the Board.

(d) *Federal and State grand jury, criminal trial, and government administrative subpoenas.* The General Counsel shall review and may approve the disclosure of nonpublic information pursuant to Federal and State grand jury, criminal trial, and government administrative subpoenas.

(e) *Conditions or limitations; written agreements.* The General Counsel may impose any conditions or limitations on disclosure that the General Counsel determines to be necessary to effect the purposes of this regulation, including the protection of the confidentiality of the Board's information, or to ensure compliance with applicable laws or regulations. In addition, Board or Reserve Bank staff may make disclosures pursuant to any written agreement entered into by the Board when authorized by the express terms of such agreement or by the General Counsel.

§ 261.23 Other disclosure of confidential supervisory information.

(a) *Board policy.* (1) It is the Board's policy regarding confidential supervisory information that such information is confidential and privileged. Accordingly, the Board does not normally disclose confidential supervisory information to the public or authorize third parties in possession of confidential supervisory information to further use or disclose the information. When considering a request to access, use, or to disclose confidential supervisory information under this section, the Board will not authorize access, use, or disclosure unless the requesting person is able to show a substantial need to access, use, or disclose such information that outweighs the need to maintain confidentiality.

(2) Notwithstanding any other provision of this part, the Board will not authorize access to or disclosure of any suspicious activity report (SAR), or any information that would reveal the